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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,251	09/07/2001	Bernard Vallee	05-804	2488
34704 7590 04/08/2008 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER MCPARTLIN, SARAH BURNHAM	
			ART UNIT 3636	PAPER NUMBER
			MAIL DATE 04/08/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary****Application No.**

09/936,251

**Applicant(s)**

VALLEE, BERNARD

**Examiner**

Sarah B. McPartlin

**Art Unit**

3636

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,5,8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by McLeod (4,787,675). With respect to claim 1, McLeod discloses a chair (10) with a seat (14) that folds down about a fixed horizontal pivot axis (110) and which is intended, in particular, to equip halls that receive the public, such as lecture theatres and/or show halls, comprising at least an under frame (20)(32) having an essentially longitudinal axis and to which a backrest (16) may be fixed, the under frame (20)(32) comprising at least a first stationary element (32) for taking up vertical forces, the fixed horizontal pivot axis (110) being fixed relative to the first stationary element (32) and to the seat (14), said seat (14) comprising a first part (34) projecting forwards with respect to said fixed horizontal pivot axis (110) and a second part (54) projecting towards said under frame (20)(32), wherein said under frame (20)932 contains a gas strut (56) having a first end pivotally fixed to said second part (54) at pivot (112) and a second end pivotally fixed at fastener (59) to the under frame (20)(32).

With respect to claim 5, a rail (36) collaborates with said seat (14) to position said horizontal pivot axis (110) with respect to said seat (14) according to an angle B by which said seat (14) is deployed.

With respect to claim 8, an opening (i.e. between elements (20) and the legs of u-shaped stationary element (32)) is made in said under frame, facing said second part (54) so as to partially accommodate said second part.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 2 is rejected under 35 U.S.C. 102(b) as being anticipated by McLeod (4,787,675). With respect to claim 2, it would have been an obvious matter of design choice to space the horizontal axle a distance between about 2 and 15 centimeters from the longitudinal axis of said under frame. Applicant has not stated that the claimed range is critical or that it solves any stated problem or is for a particular purpose. Any spaced distance between the longitudinal axis and the horizontal axis would appear to function equally as well.

5. Claims 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLeod (4,787,675) in view of Betherum (928,929). As disclosed above, McLeod, as modified, reveals all claimed elements except telescopically assembled under frame and a work surface.

Betherum teaches the incorporation of a work surface (14) mounted on a second element (13), which is telescopically received by a first element (5) of an under frame (5)(13).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the seat disclosed by McLeod, with the teachings of Betherum. The incorporation of a work surface on the backside of the seat disclosed by McLeod, would provide a convenient additional surface area for storage. Furthermore, all of the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

#### ***Response to Amendment/Arguments***

6. Applicant's amendment and remarks filed on January 14, 2008 have been considered in their entirety. The arguments with respect to Bathrick and Sherman are moot in view of the new grounds of rejection set forth above. McLeod discloses a horizontal pivot axis (110) that is fixed with respect to the element (32). Element (32) is stationary with respect to the under frame (20)(32). The Examiner therefore contends that McLeod meets the limitations of the claim. Furthermore, the strut (56) disclosed by McLeod is pivotally connected to a second part (54) of the seat (14) at one end and is pivotally connected to the under frame (20)(32) at the opposite end. Again, the Examiner contends that McLeod meets this limitation of the claim.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah B. McPartlin whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sarah B. McPartlin/  
Primary Examiner  
Art Unit 3636

SBM  
March